

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

IN RE:

Donald Todd Kitchens

Lorrie Ann Kitchens

SSN(s): xxx-xx-4627, xxx-xx-5253

775 County Road 113

Whitesboro, TX 76273

CASE NO: 10-44224

Chapter 13

Debtor

You should read this Plan carefully and discuss it with your attorney. Confirmation of this Plan by the Bankruptcy Court may modify your rights by providing for payment of less than the full amount of your claim, by setting the value of the collateral securing your claim, and/or by setting the interest rate on your claim.

**CHAPTER 13 PLAN**

Debtor or Debtors (hereinafter called "Debtor") proposes this Chapter 13 Plan:

1. **Submission of Income.** Debtor submits to the supervision and control of the Chapter 13 Trustee ("Trustee") all or such portion of future earnings or other future income of Debtor as is necessary for the execution of this Plan.

2. **Plan Payments and Length of Plan.** Debtor will pay the sum of see below per month to Trustee by ☐ Payroll Deduction(s) or by ☒ Direct Payment(s) for the period of 60 months, unless all allowed claims in every class, other than long-term claims, are paid in full in a shorter period of time. The term of this Plan shall not exceed sixty (60) months. See 11 U.S.C. §§ 1325(b)(1)(B) and 1325(b)(4). Each pre-confirmation plan payment shall be reduced by any pre-confirmation adequate protection payment(s) made pursuant to Plan paragraph 6(A)(i) and § 1326(a)(1)(C).

The following alternative provision will apply if selected:

☒ Variable Plan Payments

Beginning Month	Ending Month	Amount of Monthly Payment	Total
1 (01/06/2011)	12 (12/06/2011)	\$160.00	\$1,920.00
13 (01/06/2012)	18 (06/06/2012)	\$315.84	\$1,895.04
19 (07/06/2012)	50 (02/06/2015)	\$417.95	\$13,374.40
51 (03/06/2015)	60 (12/06/2015)	\$721.95	\$7,219.50
Grand Total:			\$24,408.94

Reason for Variable Plan Payments:

Annuity loan (\$155.84/month) pays off after 12 months, annuity loan (\$102.11/month) pays off after 18 months, and the 2008 Dodge (\$304.00/month) pays off after 50 months.

3. **Payment of Claims.** The amounts listed for claims in this Plan are based upon Debtor's best estimate and belief. Allowed claims shall be paid to the holders thereof in accordance with the terms thereof. From the monthly payments described above, the Chapter 13 Trustee shall pay the following allowed claims in the manner and amounts specified. Claims filed by a creditor designated as secured or priority but which are found by the Court to be otherwise shall be treated as set forth in the Trustee's Recommendation Concerning Claims.

Case No:

Debtor(s): **Donald Todd Kitchens**  
**Lorrie Ann Kitchens**

4. **Administrative Claims.** Trustee will pay in full allowed administrative claims and expenses pursuant to § 507(a)(2) as set forth below, unless the holder of such claim or expense has agreed to a different treatment of its claim.

(A). **Trustee's Fees.** Trustee shall receive a fee for each disbursement, the percentage of which is fixed by the United States Trustee.

(B). **Debtor's Attorney's Fees.** The total attorney fee as of the date of filing of the petition is \$3,000.00. The amount of \$500.00 was paid prior to the filing of the case. The balance of \$2,500.00 will be paid ☒ from first funds upon confirmation, or in the alternative ☐ from the remaining balance of funds available after specified monthly payments. The total attorney fees are subject to reduction by notice provided in the Trustee's Recommendation Concerning Claims to an amount consistent with LBR 2016(h) absent a certification from debtors attorney regarding legal services provided pertaining to automatic stay litigation occurring in the case.

5. **Priority Claims.**

(A). **Domestic Support Obligations.**

☒ None. If none, skip to Plan paragraph 5(B).

- (i). Debtor is required to pay all post-petition domestic support obligations directly to the holder of the claim.
- (ii). The name(s) and address(es) of the holder of any domestic support obligation are as follows. See 11 U.S.C. §§ 101(14A) and 1302(b)(6).
- (iii). Anticipated Domestic Support Obligation Arrearage Claims

(a). Unless otherwise specified in this Plan, priority claims under 11 U.S.C. § 507(a)(1) will be paid in full pursuant to 11 U.S.C. § 1322(a)(2). These claims will be paid at the same time as claims secured by personal property, arrearage claims secured by real property, and arrearage claims for assumed leases or executory contracts.

☒ None; or

(a) Creditor (Name and Address)	(b) Estimated arrearage claim	(c) Projected monthly arrearage payment / Months
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(b). Pursuant to §§ 507(a)(1)(B) and 1322(a)(4), the following domestic support obligation claims are assigned to, owed to, or recoverable by a governmental unit.

☒ None; or

Claimant and proposed treatment:

(a) Claimant	(b) Proposed Treatment
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(B). **Other Priority Claims (e.g., tax claims).** These priority claims will be paid in full, but will not be funded until after all secured claims, lease arrearage claims, and domestic support claims are paid in full.

(a) Creditor	(b) Estimated claim
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Case No:

Debtor(s): **Donald Todd Kitchens**  
**Lorrie Ann Kitchens**

**6. Secured Claims.**

**(A). Claims Secured by Personal Property Which Debtor Intends to Retain.**

(i). **Pre-confirmation adequate protection payments.** Unless the Court orders otherwise, no later than 30 days after the date of the filing of this plan or the order for relief, whichever is earlier, the Debtor shall make the following adequate protection payments to creditors pursuant to § 1326(a)(1)(C). If the Debtor elects to make such adequate protection payments on allowed claims to the Trustee pending confirmation of the plan, the creditor shall have an administrative lien on such payment(s), subject to objection. If Debtor elects to make such adequate protection payments directly to the creditor, Debtor shall provide evidence of such payment to the Trustee, including the amount and date of the payment, as confirmation is prohibited without said proof.

Debtor shall make the following adequate protection payments:

- ☐ directly to the creditor; or
- ☐ to the Trustee pending confirmation of the plan.

(a) Creditor	(b) Collateral	(c) Adequate protection payment amount
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(ii). **Post confirmation payments.** Post-confirmation payments to creditors holding claims secured by personal property shall be paid as set forth in subparagraphs (a) and (b). If Debtor elects to propose a different method of payment, such provision is set forth in subparagraph (c).

(a). **Claims to Which § 506 Valuation is NOT Applicable.** Claims listed in this subsection consist of debts secured by a purchase money security interest in a vehicle for which the debt was incurred within 910 days of filing the bankruptcy petition, or, if the collateral for the debt is any other thing of value, the debt was incurred within 1 year of filing. See § 1325(a)(5). After confirmation of the plan, the Trustee will pay to the holder of each allowed secured claim the monthly payment in column (f) based upon the amount of the claim in column (d) with interest at the rate stated in column (e). Upon confirmation of the plan, the interest rate shown below or as modified will be binding unless a timely written objection to confirmation is filed and sustained by the Court. Payments distributed by the Trustee are subject to the availability of funds.

☒ None; or

(a) Creditor; and (b) Collateral	(c) Purchase date	(d) Estimated Claim	(e) Interest rate	(f) Monthly payment / Months
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(b). **Claims to Which § 506 Valuation is Applicable.** Claims listed in this subsection consist of any claims secured by personal property not described in Plan paragraph 6(A)(ii)(a). After confirmation of the plan, the Trustee will pay to the holder of each allowed secured claim the monthly payment in column (f) based upon the replacement value as stated in column (d) or the amount of the claim, whichever is less, with interest at the rate stated in column (e). The portion of any allowed claim that exceeds the value indicated below will be treated as an unsecured claim. Upon confirmation of the plan, the valuation and interest rate shown below or as modified will be binding unless a timely written objection to confirmation is filed and sustained by the Court. Payments distributed by the Trustee are subject to the availability of funds.

☒ None; or

(a) Creditor; and (b) Collateral	(c) Purchase date	(d) Replacement value	(e) Interest rate	(f) Monthly payment / Months
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Case No:

Debtor(s): **Donald Todd Kitchens**  
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(B). **Claims Secured by Real Property Which Debtor Intends to Retain.** Debtor will make all post-petition mortgage payments directly to each mortgage creditor as those payments ordinarily come due. These regular monthly mortgage payments, which may be adjusted up or down as provided for under the loan documents, are due beginning the first due date after the case is filed and continuing each month thereafter, unless this Plan provides otherwise. Trustee may pay each allowed arrearage claim at the monthly rate indicated below until paid in full. Trustee will pay interest on the mortgage arrearage if the creditor requests interest, unless an objection to the claim is filed and an order is entered disallowing the requested interest.

(a) Creditor; and (b) Property description	(c) Estimated pre-petition arrearage	(d) Interest rate	(e) Projected monthly arrearage payment / Months
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(C). **Surrender of Collateral.** Debtor will surrender the following collateral no later than thirty (30) days from the filing of the petition unless specified otherwise in the Plan. Any involuntary repossession/foreclosure prior to confirmation of this Plan must be obtained by a filed motion and Court order, unless the automatic stay no longer applies under § 362(c). Upon Plan confirmation, the automatic stay will be deemed lifted for the collateral identified below for surrender and the creditor need not file a Motion to Lift Stay in order to repossess, foreclose upon or sell the collateral. Nothing herein is intended to lift any applicable co-Debtor stay, or to abrogate Debtor's state law contract rights.

(a) Creditor	(b) Collateral to be surrendered
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(D). **Void Lien:** The secured creditors listed below hold a non-purchase money, non-possessory security interest on Debtor's exempt property. Their lien will be voided pursuant to 11 U.S.C. § 522(f) and their claim treated as unsecured and paid pursuant to paragraph 7 below:

Name of Creditor	Collateral Description	Estimated Claim
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7. **Unsecured Claims.** Debtor estimates that the total general unsecured debt not separately classified in Plan paragraph 12 is \$111,138.25. After all other classes have been paid, Trustee will pay to the creditors with allowed general unsecured claims a pro rata share of \$19,468.28. Trustee is authorized to increase this dollar amount if necessary, in order to comply with the applicable commitment period stated in paragraph 2 of this Plan.

8. **Executory Contracts and Unexpired Leases.** All executory contracts and unexpired leases are assumed, unless rejected herein. Payments due after the filing of the case will be paid directly by Debtor (c) or through the plan by the Trustee (d), as set forth below.

Debtor proposes to cure any default by paying the arrearage on the assumed leases or unexpired contracts in the amounts projected in column (e) at the same time that payments are made to secured creditors. All other executory contracts and unexpired leases of personal property are rejected upon conclusion of the confirmation hearing.

☒ None; or

(a) Creditor; and (b) Nature of lease or executory contract	(c) Payment to be paid directly by Debtor	(d) Payment to be paid through plan by Trustee / Months	(e) Projected arrearage monthly payment through plan (for informational purposes) / Months
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9. **Property of the Estate.** Upon confirmation of this plan, title of the property of the estate shall vest in DEBTOR(S), unless the Court orders otherwise.

10. **Post-petition claims.** The DEBTOR(S) will not incur any post-petition consumer debt except upon written approval of the Court or the Standing Chapter 13 Trustee. Post-petition claims will be allowed only as specified in 11 U.S.C. § 1305.

11. **General Provisions.** Post-Petition earnings during the pendency of this case shall remain property of the estate notwithstanding section 1327. Any remaining funds held by the Trustee after dismissal or conversion of a confirmed plan may be distributed to creditors pursuant to these provisions. Notwithstanding section 1329(a), the Trustee may bring a motion anytime within the applicable commitment period of the Plan to modify debtor's Plan to meet the criteria of section 1325(b). Any funds sent to the debtor(s) in care of the Trustee, during the pendency of this case may be deposited to the debtor's account and disbursed to creditors holding allowed claims pursuant to this Plan, the Confirmation Order, and/or as set forth in the Trustee's Recommendation Concerning Claims.

12. **Other Provisions:**

(A). **Special classes of unsecured claims.**

Name of Unsecured Creditor	Remarks
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(B). **Other direct payments to creditors.**

Name of Creditor	Remarks
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**Bank of America**

**Flagstar Bank**

**Great American**

**Great American**

**Volkswagen Credit**

(C). **Additional provisions.**

**Pay Direct Taxes**

Unless otherwise specified in this Plan, all applicable City, County, ISD and/or CED tax(es) specifically including any ad valorem tax(es) for the calendar year in which this bankruptcy was filed that are not otherwise provided for in this plan shall be paid direct. The Debtor will timely pay the 2010 taxes directly, unless otherwise specified in this Plan, or the automatic stay of § 362 will lift as to all taxes due on the Debtor's said property.

**Attorney Relieved and Released as Attorney of Record**

After the Trustee's Recommendation Regarding Claims process has been completed and approved by the Court, the Attorney for Debtors is hereby relieved and released as attorney of record for Debtors except for those documents necessary to be filed immediately prior to Debtors' Discharge.

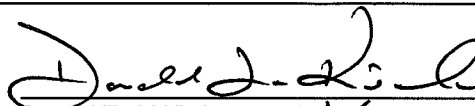
Special Note: This plan is intended as an exact copy of the recommended form prepared by the Standing Chapter 13 Trustees for this District, except as to any added paragraphs after paragraph 11 above. The Chapter 13 trustee shall be held harmless for any changes in this plan from the recommended form dated July 1, 2005.

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Date:

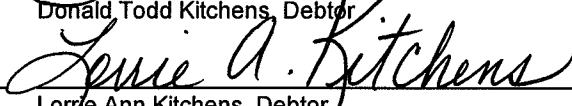
12-2-10



Donald Todd Kitchens, Debtor



Merv Waage, Debtor's Attorney



Lorrie Ann Kitchens, Debtor

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument was electronically mailed to the following:

1. Janna L. Countryman, Trustee  
P.O. Box 941166  
Plano, TX 75094-1166

I further certify that a true and correct copy of the foregoing instrument was delivered by Regular First Class Mail on the 6<sup>th</sup> day of December, 2010 to the following:

1. Internal Revenue Service  
PO Box 21126  
Philadelphia, PA 19114
2. The Attorney General of the United States  
Department of Justice  
Tenth and Constitution Avenue  
Washington, DC 20530
3. The United States Attorney for the  
Eastern District of Texas  
110 North College Avenue  
Suite 700  
Tyler, TX 75702-0204
4. All creditors as shown on the attached mailing matrix
5. Donald Todd Kitchens and Lorrie Ann Kitchens  
775 County Road 113  
Whitesboro, TX 76273

  
Merv Waage

Label Matrix for local noticing  
0540-4  
Case 10-44224  
Eastern District of Texas  
Sherman  
Mon Dec 6 18:05:33 CST 2010

Attorney General of Texas  
Taxation Division Bkrpcy  
Box 12548  
Capitol Station  
Austin TX 78711-2548

Bank of America  
PO Box 17054  
Wilmington DE 19850-7054

CPU Citi  
Conoco Phillips Union  
Attention Centralized Bankruptcy  
PO Box 20363  
Kansas City MO 64195-0363

Department of Education Neln  
121 South 13th Street  
Lincoln NE 68508-1904

Flagstar Bank  
Attention Bankruptcy Department  
MS S144 3  
5151 Corporate Drive  
Troy MI 48098-2639

Grayson County Tax Collector  
PO Box 2106  
Sherman TX 75091-2106

(p) INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 21126  
PHILADELPHIA PA 19114-0326

Lowes MBGA  
Attention Bankruptcy Department  
PO Box 103104  
Roswell GA 30076-9104

Michael J Adams PC  
300 East Sonterra Boulevard  
Building 1  
Suite 1200  
San Antonio TX 78258-4077

Alliance One  
4850 Street Row  
Suite 300  
Treboose PA 19053-6643

Attorney General of the US  
Department of Justice  
Tenth & Constitution Avenues  
Washington DC 20530-0001

Becket & Lee  
PO Box 3001  
Malvern PA 19355-0701

City of Whitesboro Tax Collector  
PO Box 2106  
Sherman TX 75091-2106

Discover Fin  
PO Box 6103  
Carol Stream IL 60197-6103

GEMB Chevron  
Attention Bankruptcy  
PO Box 103104  
Roswell GA 30076-9104

Great American  
PO Box 5420  
Cincinnati OH 45201-5420

Donald Todd Kitchens  
775 County Road 113  
Whitesboro, TX 76273-5922

(p) FORD MOTOR CREDIT COMPANY  
PO BOX 6275  
DEARBORN MI 48121-6275

Northstar Location Services LLC  
PO Box 2157  
Williamsville NY 14231-2157

American Express  
c/o Becket & Lee  
PO Box 3001  
Malvern PA 19355-0701

Bank of America  
201 North Tyon Street  
Charlotte SC 28202-2146

Bonded Collection  
29 East Madison  
Suite 1650  
Chicago IL 60602-4435

Client Services Inc  
3451 Harry Truman Boulevard  
Saint Charles MO 63301-9816

Exxmbliciti  
Attention Centralized Bankruptcy  
PO Box 20507  
Kansas City MO 64195-0507

GEMB Dillards  
Attention Bankruptcy  
PO Box 103104  
Roswell GA 30076-9104

HSBC Best Buy  
Attention Bankruptcy  
PO Box 5263  
Carol Stream IL 60197-5263

Lorrie Ann Kitchens  
775 County Road 113  
Whitesboro, TX 76273-5922

Michael J Adams Attorney  
Michael J Adams PC  
300 East Sonterra Boulevard  
Building 1 Suite 1200  
San Antonio TX 78258-3971

Plaza Associates  
JAF Station  
PO Box 2769  
New York NY 10116-2769



Professional Recovery  
Services Inc  
PO Box 1880  
Voorhees NJ 08043-7880

Simm Associate  
PO Box 800  
Newark DE 19702

State Comptroller of  
Public Accounts  
Capitol Station  
Austin TX 78774-0001

TNB Visa  
PO Box 560284  
Dallas TX 75356-0284

Texaco Citibank  
Attention Centralized Bankruptcy  
PO Box 20507  
Kansas City MO 64195-0507

Texas Employment Commission  
TEC Building  
Tax Department  
Austin TX 78778-0001

Tractor Supply Company CBSD  
PO Box 6497  
Sioux Falls SD 57117-6497

U.S. Attorney General  
Department of Justice  
Main Justice Building  
10th & Constitution Ave., NW  
Washington, DC 20530-0001

US Trustee  
Office of the U.S. Trustee  
110 N. College Ave.  
Suite 300  
Tyler, TX 75702-7231

Union Square Federal  
Credit Union  
1401 Holiday  
Wichita Falls TX 76301-7108

United States Attorneys Office  
110 North College Avenue  
Suite 700  
Tyler TX 75702-7237

Volkswagen Credit  
PO Box 60144  
City of Industry CA 91716-0144

WFNNB Bealls  
PO Box 2974  
Mission KS 66201-1374

Merv Bernard Waage  
8350 South Stemmons  
Hickory Creek, TX 75065-7590

Whitesboro ISD Tax Collector  
c/o Grayson County Tax Collector  
PO Box 2106  
Sherman TX 75091-2106

Zwicker and Associates  
80 Minuteman Road  
Andover MA 01810-1008

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Internal Revenue Service  
Centralized Insolvency Operations  
PO Box 21126  
Philadelphia PA 19114-0326

Mazda American Credit  
PO Box 537901  
Livonia MI 48153

End of Label Matrix	
Mailable recipients	45
Bypassed recipients	0
Total	45